

**CAYUGA NATION JUDICIARY LAW  
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*Preamble*

*As a sovereign nation, we, the Cayuga Nation, consistent with the principles of self-determination and self-governance, hereby adopt through our lawful governing body, the Cayuga Nation Council, this Judiciary Law.*

*In adopting this Judiciary Law, we seek to establish and administer justice among our citizens and others on our lands in a manner befitting and respecting our heritage, laws, customs, and traditions.*

## **1. Purpose and Policy**

- 1.1 The purpose of this law is to establish a Judiciary, and to provide for the administration of law, justice, judicial procedures, and practices by the Cayuga Nation as a sovereign nation by exercising the inherent power to make, execute, apply, and enforce its own law, and to apply its own customs and traditions in matters affecting Cayuga Nation citizens.
- 1.2 It is the policy of the Nation to provide a fair and impartial forum for the resolution of all matters that come before it pursuant to a grant of authorization by law.

## **2. Adoption, Amendment, Repeal**

- 2.1 This law is adopted by the Cayuga Nation Council by duly-authorized Resolution.
- 2.2 This law may only be amended by the Cayuga Nation Council in accordance with Cayuga Nation laws, customs, and traditions.
- 2.3 Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

## **3. Definitions**

- 3.1 The definitions below shall govern the words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense:
  - (a) “Agency” means any Nation board, committee, commission, department, or officer acting on behalf of such an entity and where relevant, a hearing body of such an entity.
  - (b) “Background investigation” means the process utilized by the Nation’s Personnel Department.
  - (c) “Benefit” means money, a service, or thing of value, to which a person is entitled by Nation law upon the satisfaction or fulfillment of named requirements.
  - (d) “Council” means the Cayuga Nation Council.
  - (e) “Court” means the specific court being referred to in any particular section. For example, if the section covers the Trial Court, the term shall mean that court.
  - (f) “Indian” means any person who is a member of any federally recognized Indian tribe or nation.

- (g) “Interlocutory appeal” means an appeal that occurs before the Trial Court issues a final ruling on a case.
- (h) “Judge” means a judge who sits on either the Trial Court or Court of Appeals within the Judiciary.
- (i) “Nation” means the Cayuga Nation.
- (j) “Non-Cayuga judgment” means a judgment, decree or order of any other court which may be entitled to full faith and credit by the Judiciary as determined by the Judiciary.
- (k) “Person” means an individual or group of individuals and any firm, association, organization, partnership, estate, trust, company, or corporation.
- (l) “Pro Tem Judge” means a decision maker who is not currently seated on the Judiciary, but who is appointed on a temporary (pro tempore), case-by-case basis to hear and decide matters in the Trial Court, Court of Appeals, and/or judicial disciplinary panels.
- (m) “Reservation” means all land within the boundaries of the Cayuga Nation’s 64,015 acre Reservation as established by the 1794 Treaty of Canandaigua.
- (n) “Nation law” means the Nation’s traditional laws as well as any statute, rule, regulation, policy, resolution, or ordinance enacted by the Cayuga Nation Council.

#### **4. General Provisions**

- 4.1 *Establishment.* There is hereby established a Judiciary, which shall administer the judiciary authorities and responsibilities of the Nation. The Judiciary shall support a separation of Nation governmental powers.
- 4.2 The Judiciary shall consist of the following:
  - (a) The Trial Court as provided under Rule 5, which shall include the following divisions:
    - (1) General Civil Division as provided under Rule 7.
    - (2) Such other courts or divisions that may be created by Nation law.
  - (b) The Court of Appeals as provided under Rule 8.
- 4.3 *Seals of the Courts.* The Trial Court and the Court of Appeals shall each adopt a seal to be used to authenticate their respective judgments and other documents.

- 4.4 *Proceedings.* Attendance at proceedings of the Trial Court and Court of Appeals by members of the public shall be at the sole discretion of the presiding Judge(s).
- 4.5 *Civil Contempt.* The following provisions shall apply to the courts of the Judiciary.
- (a) Any person who willfully disrupts, obstructs, or otherwise interferes with the conduct of any proceeding in any Nation court, or who obstructs or interferes with the administration of justice by any court, or who disobeys or resists or interferes with any lawful summons, subpoena, process, order, rule, decree, or command of any court shall be subject to punishment for contempt of court.
  - (b) Any person found in contempt of court may be fined in an amount not to exceed one thousand dollars (\$1,000) per act of contempt, and not to exceed five thousand dollars (\$5,000) per instance of continuing contempt. In instances of continuing contempt, each day shall constitute a separate act of contempt.
- 4.6 *Court Personnel.* Court personnel shall serve in accordance with the Nation laws.
- (a) *Court Administrator.* The Chief Judge of the Court of Appeals shall hire a Court Administrator.
  - (b) *Clerks of Court.* The Chief Judge of the Court of Appeals shall hire a person to serve as the clerk of the Court.
  - (c) Court personnel positions shall be contingent upon funding availability.

## **5. Trial Court**

- 5.1 *Judges.* The Trial Court shall consist of one or more judges, duly appointed, as the case may.
- 5.2 *Subject Matter Jurisdiction.* The Nation is a sovereign nation and reserves all sovereign rights, authority, and jurisdiction consistent with being a sovereign nation. The Trial Court shall have subject matter jurisdiction over cases and controversies arising under the following:
- (a) Nation laws which specifically authorize the Trial Court to exercise jurisdiction.
  - (b) Where an agency has denied a person a benefit or has provided a person with an incorrect or incomplete benefit, or has imposed a fine on a person, and the person has exhausted the process provided by law, if any, for review of the action, and
    - (1) A hearing body has not been designated by law for the purpose of an appeal; or

(2) There is no law providing that the agency's decision is final or not appealable.

(c) Where a disagreement over the terms, interpretation or enforcement of a written contract, where at least one (1) of the parties is an agency or where both parties meet the personal jurisdiction requirements listed in Rule 5.4.

(1) Statute of Limitations. In all cases requiring interpretation or enforcement of a contract, the suit must be filed within twenty-four (24)-months after either:

(A) The date a party breaches the terms of the contract; or

(B) In actions for declaratory relief, the date a dispute arises as to the interpretation of the contract.

(d) Where a declaratory judgment is sought to determine the validity of a Nation law, the Trial Court shall render a declaratory judgment in such action only when it appears from the petition and the supporting evidence that the law or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the petitioner. The Trial Court shall declare the law invalid if it finds that:

(1) The law violates Nation law; or

(2) The law was adopted without compliance with law making procedures required under Nation law.

(e) Small claims actions where the amount in controversy is five thousand (\$5,000) or less.

5.3 *Territorial Jurisdiction.* The territorial jurisdiction of the Trial Court shall extend to the Reservation and all lands held in trust by the United States for the benefit of the Nation.

5.4 *Personal Jurisdiction.*

(a) *Indians.* The Trial Court shall have jurisdiction over all Indians.

(b) *Non-Indians.* The Trial Court shall have jurisdiction over non-Indians who have consented to the jurisdiction of the Nation or Trial Court or as otherwise consistent with federal law.

(1) *Consent to Jurisdiction.* For purposes of Rule 5.4(b) above, a person shall have consented to the jurisdiction of the Trial Court by:

(A) Entering into a consensual relationship with the Nation, Nation entities, Nation corporations, or Nation members, including but not limited to contracts or other agreements; or

(B) Other facts which the Trial Court determines manifest an intent to consent to the authority of the Nation or the jurisdiction of the Trial Court, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.

(c) *Long-arm Jurisdiction.* Consistent with Rules 5.4(a) and (b), in any case in which the Trial Court has subject matter jurisdiction, the Trial Court may exercise jurisdiction over any person who has sufficient contacts with the Reservation or Nation trust land. Such sufficient contacts can be demonstrated where a person purposefully avails himself of the Reservation such that he or she could reasonably anticipate being haled into the forum for the resolution of a case or controversy.

5.5 *Full Faith and Credit or Comity.* The Trial Court shall give full faith and credit to the orders and judgments of the courts of other Nations, states, and local governments unless:

- (a) The court in question does not recognize the orders and judgments of the Trial Court;
- (b) The court in question did not have jurisdiction over the case or a party or parties to it;
- (c) The order or judgment was based on fraud;
- (d) To do so would violate the public policy of the Nation or would be likely to harm the culture, traditions, or sovereignty of the Nation; or
- (e) The order or judgment is on appeal or is being contested in another jurisdiction.

5.6 *Non-Cayuga Judgments.* A certified copy of any non-Cayuga judgment may be filed with the Clerk of Court. Except as provided under Rule 15.5, the Clerk of Court shall treat the non-Cayuga judgment in the same manner as a judgment of the Judiciary. A judgment so filed shall have the same effect and is subject to the same procedures and status as a judgment of the Judiciary, and may be enforced or satisfied in like manner, except that the Judiciary shall reserve the right to review and modify any non-Cayuga order for the enforcement of a judgment, including but not limited to garnishment orders.

5.7 *Writs, Orders and Judgments.* The Trial Court may issue all writs, orders, and judgments necessary in aid of its jurisdiction. All writs, orders, and judgments issued by the Court shall be in the name of the Nation, shall bear the date and the day they are issued, the seal of the Court, and be attested to in the name of the Judge who issued it.

**6. [RESERVED]**

**7. General Civil Division**

7.1 There is hereby established a General Civil Division, under the jurisdiction of the Trial Court, to provide a forum for the resolution of all civil actions and proceedings, unless jurisdiction is given to some other division or court.

**8. Court of Appeals**

8.1 *Judges.*

(a) The Court of Appeals shall consist of a full-time Chief Judge.

8.2 *Jurisdiction.*

(a) The jurisdiction of the Court of Appeals shall be limited to review of:

- (1) Final orders, sentences, and judgments of the Trial Court;
- (2) Appeals of agency decisions or administrative decisions where a provision of Nation law expressly vests such jurisdiction in the Court of Appeals; and
- (3) Interlocutory appeals of an intermediate ruling, judgment, or order during an original hearing, that wishes to seek intermediate relief. The Court of Appeals shall implement rules that address the timelines for the initial review of an interlocutory appeal, criteria for acceptance of an interlocutory appeal, and procedures for the hearing of such an appeal.

(b) The Court of Appeals shall be the court of final appeal within the Nation.

8.3 *Scope of Appellate Review.*

(a) *Scope of Review.* In hearing an appeal, the Court of Appeals shall not substitute its judgment or wisdom of the credibility of testimony or the weight of evidence for that of the original hearing body.

- (1) The Court of Appeals' review shall be limited to matters of record in the case, and may reject a finding of fact only where it determines that the finding is clearly erroneous. Where the rejected finding is necessary for the resolution of the issues, the Court of Appeals shall issue an order of reversal. Where the Court of Appeals determines that the original hearing body erred in not admitting relevant evidence, or in admitting irrelevant and prejudicial evidence, the Court of Appeals shall not take additional evidence or make its own judgment, but

shall remand the matter to the original hearing body to reconsider the matter on a proper evidentiary basis.

(2) Except as otherwise provided by law or rule, the Court of Appeals shall not hear new or additional facts, and issues not raised in the proceedings from which an appeal is taken shall be deemed waived and shall not be considered on appeal.

(b) *Burden of Persuasion.* The appellant shall have the burden of persuasion.

(c) *Harmless Error and Discretionary Decisions.* Without limiting the appropriate standard of review, the Court of Appeals shall give due deference to the rule of harmless error and discretionary decisions of the Nation or any Nation agency.

8.4 *The Appellate Decision.* The Court of Appeals' decision shall consist of a written opinion setting forth the reasoning by the Court in resolving the issues of the appeal and an order that shall affirm the decision below, remand the case for further proceedings, including proceedings to supplement the record, or reverse the decision below, in whole or in part, if substantial rights have been denied because the decision of the lower hearing body:

(a) Violates applicable provisions of the this Judiciary Law;

(b) Violates provisions, substantive or procedural, of applicable Nation law or applicable federal law;

(c) Is an administrative decision that is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with applicable law; or

(d) Is not supported by the substantial evidence on the record taken as a whole.

8.5 *Writs or Orders.* The Court of Appeals may issue all writs and orders necessary in the aid of its jurisdiction. A writ or order issued from the Court shall be in the name of the Nation, shall bear the date it is issued, the seal of the Court, and be attested to in the names of the Judges who issued it.

8.6 *The Chief Judge of the Court of Appeals: Duties.* In addition to his or her other judicial duties, the Chief Judge of the Court of Appeals shall have the duty of administering the Court of Appeals, which shall include the following:

(a) To oversee proper and impartial management of the Court's calendar and business;

(b) To appoint Pro Tem Judges to preside over matters where the required number of Judges is not otherwise available;

(c) To supervise the Court Administrator, the Court of Appeals Clerk of Court, and other Court of Appeals personnel;



- (d) To prescribe standards concerning the training and continued education for Judges of the Court of Appeals; and
- (e) Other duties as prescribed by Nation law or the Judiciary's internal operating procedures.

## **9. Internal Operating Procedures**

9.1 *Internal Operating Procedures.* The Judiciary is authorized to establish internal operating procedures governing the operation of the court. The procedures shall not affect substantive rights and shall not conflict with existing law, the Rules of Procedure, or other rules enacted or approved by the Council.

## **10. [RESERVED]**

## **11. Judges**

11.1 *Qualifications for Judges.* All candidates for, or individuals who may be appointed to, the position of Judge shall submit to a thorough background investigation which shall be completed prior to being considered for appointment.

- (a) Judges of the Trial Court and the Court of Appeals shall be individuals who meet the qualifications set forth in this section and who shall be duly appointed by the Cayuga Nation Council. The appointments of the currently serving judges shall continue uninterrupted by the amendment and restatement of this Law until the end of their current appointments.
- (b) The Judges of the Trial Court and the Court of Appeals shall be persons qualified to practice law in a state of the United States and possess at least ten years of judicial experience in the court of the Cayuga Nation, another Indian nation, or a court of the United States and who shall from time to time agree to serve as Judges of the Trial Court at a rate of pay to be set in advance of their appointment by the Cayuga Nation Council.

11.2 *Disclosure.* Prior to appointment to fill a vacancy, candidates seeking to serve as a Judge shall disclose to the Council all previous convictions, including those for which a pardon has been granted, which may disqualify the candidate from serving on the Judiciary.

11.3 *Prohibitions.*

- (a) While serving a term of office, no Judge may:
  - (1) Be elected or appointed to serve on any Nation board, committee or commission, including a Nation-chartered board, committee or commission; or
  - (2) Be otherwise employed by the Nation.

- (b) Candidates appointed to the Judiciary shall resign from any applicable board, committee or commission, or from any paid position with the Nation, with such resignation to be effective prior to that candidate taking the Judicial oath of office.
- 11.5 *Oath of Office.* Every appointed Judge shall take and file an oath to uphold the Constitution, abide by the Canons of Judicial Ethics, and impartially administer justice.
- 11.6 *Duties of Judges.* Judges shall represent the Judiciary with professionalism and competence. In addition to all other duties imposed by this and other Nation laws, Judges shall:
  - (a) Hear and adjudicate cases in accordance with Nation law;
  - (b) Abide by all court rules, Nation laws, and applicable state and federal laws;
  - (c) Complete assignments given by the appropriate Chief Judge;
  - (d) Represent the Judiciary at functions and meetings where appropriate;
  - (e) Maintain the integrity of the system by upholding the Canons of Judicial Ethics, acting ethically and honestly both in private and in public; and
  - (f) Remain informed about changes to Nation, state, and federal laws, and state and federal court and administrative hearing body decisions that may impact Indian country.
- 11.7 *Vacancies.* If a Judge dies, resigns, is removed from office, becomes incapacitated for a period in excess of one hundred eighty (1) consecutive days, or is declared *incompetent* by a court of competent jurisdiction, the office of such Judge shall be declared vacant by the Council and the Council shall appoint a successor to fill the office for the remainder of the Judge's term of office, if fewer than two hundred seventy (270) days, but more than one hundred eighty (1) days, remain in the term.
- 11.8 *Eligibility for Appointment.* Only those persons who meet the requirements of 11.1 are eligible to be appointed by the Council to fill a vacancy on the court.
- 11.9 *Compensation and Benefits.*
  - (a) Compensation for Judges shall be initially established through the passage of a resolution by the Cayuga Nation Council. Future compensation shall be in accordance with the Nation budget process, upon approval from the Council.
  - (b) The compensation of Judges shall not be diminished during their term of office, unless a majority of a particular court votes to reduce that entire Court's own compensation equally for that Court's term.
  - (c) Full-time Judges shall receive the same fringe benefits that are provided to Nation employees in accordance with established Nation policy.

- (d) Part-time Judges shall receive stipends for their services.

11.10 *Pro Tem Judges.*

- (a) Pro Tem Judges shall be appointed as follows:

- (1) Where the necessary number of Judges is unable to hear a matter due to conflict of interest, extended absence, or for any other reason, the Cayuga Nation Council shall, subject to approval of such appointment by the Council, appoint Pro Tem Judges to hear the matter.

- (2) Where a complaint against a Judge has been filed, the Judiciary shall appoint Pro Tem Judges to sit on a disciplinary panel to hear the complaint.

- (A) A disciplinary panel shall be comprised of three (3) Pro Tem Judges who are currently serving as a Judge for any court located in the state of New York except for the Nation courts. Enrolled citizens of the Cayuga Nation shall be disqualified from serving on a disciplinary panel.

- (B) An individual shall not serve on a disciplinary panel as a Pro Tem Judge where that individual:

- (i) Is related to either the Judge facing the complaint, or to the complainant. For purposes of this section, “related to” shall include spouses, parents and parents-in-law, children and son-or-daughter in-law, grandparents, grandchildren, siblings, half siblings, siblings-in-law, first cousins, aunts, uncles, nieces, nephews, step-parents and stepchildren; or

- (ii) Currently maintains, or has previously maintained, a personal or professional relationship with either the Judge facing the complaint, or with the complainant, whereby the Pro Tem Judge could know of facts unrelated to the proceeding that could cause the Judge to be biased or that could cause the appearance of bias. For the purposes of this section, “a personal or professional relationship” shall include romantic or domestic relationships, caretaker/dependent, attorney/client, counselor/ patient and similar relationships.

- (b) While hearing a matter, Pro Tem Judges shall be afforded the same authority and decision making power as an appointed Judge, and shall abide by the requirements of Rule 11.7.
- (c) *Compensation.* Until such time as the Judiciary establishes a payment schedule, Pro Tem Judges shall be compensated in the same manner as part-time Judges and shall be reimbursed for travel and accommodations at the same rate that Nation employees are compensated.

## **12. Recusal, Reprimand, and Removal of Judges**

12.1 *Recusal.* A Judge shall recuse himself or herself from a case or any conflict of interest or appearance thereof.

12.2 *Removal or Reprimand.* During a term of appointment to office and before the end of a term, a Judge may be removed from office or reprimanded by the Cayuga Nation Council for cause. Cause is defined as:

- (a) Failure to uphold the integrity of the Cayuga Nation Court;
- (b) Impropriety or the appearance thereof of their activities;
- (c) Failure to perform the duties of their office impartially and diligently;  
or
- (d) Engaging in political activity inappropriate to their judicial office.

## **13. Retirement**

13.1 A Judge may be retired for physical or mental disability seriously interfering with the performance of his or her duties if such disability is determined to be permanent or reasonably likely to become permanent.

- (a) Initial and formal hearings regarding the retirement of a Judge for physical or mental disability shall be closed to the public, and the record of such proceedings shall be confidential.
- (b) The Judiciary shall, by rule, provide for additional initial and formal hearing procedures for this section.

13.2 *Initial Hearing.* Any person aggrieved by the conduct of a Judge may file a complaint requesting that the Judge be retired for disability. In such event the remaining Judges of the respective court shall convene a panel and conduct an initial hearing to determine if probable cause exists to believe that the Judge suffers from mental or physical disability which seriously interferes with the performance of his or her duties.

- (a) If the panel does not find probable cause, the panel shall dismiss the complaint.
- (b) If the panel does make a finding of probable cause, the panel shall provide formal notice of the complaint and finding to the Judge, as

well as notice including the date and time of a formal hearing, within ten (10) days after finding probable cause.

- 13.3 *Formal Hearing.* Formal hearings shall be recorded and shall be scheduled no sooner than thirty (30) days after the Judge receives formal notice of the complaint and finding. At such a hearing, the panel shall convene to determine whether the Judge suffers from mental or physical disability which seriously interferes with the performance of his or her duties.
- (a) The panel shall consider, in confidence, any evidence that presents sufficient information to support an allegation of possible medical incapacity, and may require that relevant medical and mental health records be provided.
  - (b) The complainant and the Judge shall have the opportunity to present testimony and other evidence, and the Judge shall have the opportunity to cross-examine adverse witnesses.
  - (c) If the panel finds, by a standard of clear and convincing evidence, that the Judge suffers from mental or physical disability which seriously interferes with the performance of his or her duties, the panel shall retire the Judge.
  - (d) Upon being retired by the panel, the Judge shall thereby be retired with the same rights and privileges as if he or she had retired voluntarily.

#### **14. Interpretation.**

14.1 *Sovereign Immunity.* The Nation does not by enacting this Law waive in any respect its sovereign immunity, or that of its agents or officers, in any manner, under any law, for any purpose, or in any place.

14.2 *No Right of Action.* This Law does not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its agencies, its officers or employees, or any other person.

14.3 *Not Subject to Review.* This Ordinance is not subject to review or modification in any state or federal court or by any authority outside the Nation.

**15. Effective Date.** The Amendment and Restatement of this Law is effective upon enactment.

Enacted by Council Resolution, October 2022